



QUALCOMM Incorporated

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September 19, 2005

Via ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Oral Ex Parte Presentation in WT Docket No. 05-7

Dear Ms. Dortch:

On behalf of QUALCOMM Incorporated (“QUALCOMM”), this is to report that on Friday, September 16, 2005, Veronica Ahern of Nixon Peabody LLP and I met with Sam Feder, Joel Kaufman, and David Senzel of the Office of the General Counsel to discuss QUALCOMM’s Petition for Declaratory Ruling in the above-referenced proceeding.

During the discussion, we provided background information on the MediaFLO service that QUALCOMM, through its MediaFLO USA subsidiary, is launching on its Channel 55 spectrum, and we explained the vague aspects of Section 27.60 (b) (iii) of the Commission’s rules—the fact that while the rule allows QUALCOMM to submit an engineering study to justify the proposed separations, the rule does not specify the methodology to calculate interference to affected adjacent channel or co-channel TV/DTV stations; does not establish a level of *de minimis* interference, and does not explain how the Commission would process these engineering studies. To fill in these gaps in the rule, we asked for the relief requested in QUALCOMM’s Petition, namely that: (i) QUALCOMM be permitted to use the OET 69 methodology, which is well known to the Commission and the TV industry, to calculate interference; (ii) interference of 2% or less from QUALCOMM’s MediaFLO service to adjacent channel or co-channel TV/DTV stations be deemed *de minimis*, the same rule that governs interference from one DTV station to other TV and DTV stations on the same Channel 55 spectrum; and (iii) the Commission adopt streamlined processing of the engineering studies.

In the course of this discussion, we stressed that Section 27.60 does not contain any “no interference” requirement. Instead, the full protection afforded to TV and DTV stations under the rule is, as the rule states, that 700 MHz licensees such as QUALCOMM must “reduce the potential for interference” to TV and DTV stations by operating in accordance with the terms of the rule. We stated that the rule simply does not say that all interference must be eliminated. Moreover, we

noted that the Section 27.60 (b) (iii) provides that a 700 MHz licensee such as QUALCOMM may submit an engineering study “justifying the proposed separations” between the facilities of the 700 MHz licensee and that of a TV or DTV station, a provision which can only be read to mean that there is some level of interference resulting from such separations that the Commission would find to be justified. Similarly, we explained that Section 27.60 (b) (ii) allows a 700 MHz licensee to go on the air if it would meet a certain ratio of the desired signal to the undesired signal, a provision which would not make any sense if the rule required zero interference (and, thus, absolutely no undesired signal). Finally, we pointed to Section 27.60 (b) (iv), which allows a 700 MHz licensee to obtain the concurrence of a TV or DTV station to go on the air, with Commission approval, and this provision, as well, can only be read to mean that that the Commission could permit interference from a 700 MHz licensee to a TV or DTV station. (During this discussion, we distributed and referred to the attached copy of Section 27.60.)

For all of these reasons, we stated that the Commission need not conduct a rulemaking to permit QUALCOMM to use the OET 69 methodology to calculate interference in an engineering study submitted pursuant to Section 27.60 (b) (iii) and to find that interference of less than 2% shown in such a study is a sufficient justification under the rule because such a ruling would merely fill in missing details not addressed in the rule, and that in so ruling, the Commission would not be making a substantive change from a no interference requirement because there is no such requirement in the rule.

Respectfully submitted,

/s/ Dean R. Brenner

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QUALCOMM Incorporated

Cc: Sam Feder
Joel Kaufman
David Senzel